

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

JULIA MERCADO ECHEVARRIA,  
et al.,

Plaintiffs,

v.

PUERTO RICO DEPARTMENT OF  
CORRECTIONS, et al.,

Defendants.

Civil No. 07-2134 (JAF)

**O R D E R**

Plaintiffs, Julia Mercado Echevarría ("Mercado") and her minor child Linnette Oramas Mercado, bring this pro-se action under the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. § 2000e-2 (2006), 29 L.P.R.A. § 155h (2001), 31 L.P.R.A. § 5141-42 (1990), and Puerto Rico contract law, against Defendants, the Puerto Rico Department of Corrections ("DOC"); DOC employees Miguel A. Pereira Castillo, Fernando Fernández Correa ("Fernández"), Annie González, Hilda Santos, Ivette Bodón González ("Bodón"), and Rafael Santiago; and the Unión General de Trabajadores ("UGT"). Docket Document No. 1. Mercado, a DOC employee, alleges that she suffered sexual harassment, sex or gender discrimination, and retaliation. Id. She further alleges that Defendant UGT failed to represent her pursuant to a collective bargaining agreement ("CBA"). Id. UGT moves to dismiss the complaint pursuant to Federal Rule of Civil Procedure 12(b)(6)

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1 or, alternatively, for a more definite statement pursuant to Federal  
2 Rule of Civil Procedure 12(e). Docket Document No. 3. Because we  
3 grant UGT's motion for a more definite statement, we will not dismiss  
4 the complaint at this time.

5 A defendant may move for a more definite statement when a  
6 complaint "is so vague or ambiguous that a party cannot reasonably be  
7 required to frame a responsive pleading." FED. R. CIV. P. 12(e).  
8 Generally, Rule 12(e) motions are "disfavored in light of the liberal  
9 pleading requirements under the Federal Rules." Hilchey v. City of  
10 Haverhill, 233 F.R.D. 67, 69 (D. Mass. 2005) (citing Conley v.  
11 Gibson, 355 U.S. 41, 47-48 (1957)); see also Swierkiewicz v. Sorema  
12 N.A., 534 U.S. 506, 512-15 (2002) (explaining that a plaintiff need  
13 only plead sufficient facts to give a defendant fair notice of the  
14 nature of the claim and plaintiff's basis for it). However, Rule  
15 12(e) provides an appropriate remedy where, as here, the plaintiff is  
16 pro se, Carter v. Newland, 441 F. Supp. 2d 208, 214 (D. Mass. 2006)  
17 (citing Hilska v. Jones, 217 F.R.D. 16, 25 (D.D.C. 2003)), and the  
18 defendant is "unable to determine the issues he must meet."  
19 Haghkerdar v. Husson Coll., 226 F.R.D. 12, 14 (D. Mass. 2005)  
20 (quoting Cox v. Me. Mar. Acad., 122 F.R.D. 115, 116 (D. Me. 1988))  
21 (internal quotation marks omitted).

22 Plaintiffs' complaint alleges simply that between 2003 and 2007  
23 (1) Fernández "sexually harassed [Mercado] on several occasions,"

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1 (2) UGT "failed to represent" Mercado under the CBA, (3) other named  
2 DOC employees "failed to follow DOC policy" and "committed acts of  
3 reprisal," and (4) Bodón filed false complaints, ridiculed Mercado in  
4 front of co-workers, and joked about Mercado's complaints. Docket  
5 Document No. 1. Aside from those relating to Bodón, Plaintiffs  
6 allege no facts against which Defendants could defend themselves or  
7 form a response. See Haghkerdar, 226 F.R.D. at 14. Rather than  
8 making conclusory legal statements, Plaintiffs must describe the  
9 factual occurrences that gave rise to the alleged sexual harassment,  
10 discrimination, retaliation, and breach of contract. See Educadores  
11 Puertorriqueños En Acción v. Hernández, 367 F.3d 61, 68 (1st Cir.  
12 2004) ("[I]n a civil rights action . . . the complaint should at  
13 least set forth minimal facts as to who did what to whom, when,  
14 where, and why . . . ."). Plaintiffs should also provide approximate  
15 dates of the alleged acts or omissions and the names of the  
16 individuals who committed them. See id.

17 We, therefore, **GRANT** Defendant UGT's motion for a more definite  
18 statement, Docket Document No. 3, and **ORDER** Plaintiffs to file an  
19 amended complaint **within thirty (30) days**. We **DENY** Defendant UGT's  
20 motion to dismiss, id.

21 **IT IS SO ORDERED.**

22 San Juan, Puerto Rico, this 7<sup>th</sup> day of May, 2008.

23 s/José Antonio Fusté  
24 JOSE ANTONIO FUSTE  
25 Chief U.S. District Judge